

HOUSE BILL REPORT

HB 2812

As Reported by House Committee On:
Public Safety

Title: An act relating to aggravated sentencing for certain theft or burglary offenses.

Brief Description: Providing for aggravated sentencing for certain theft or burglary offenses.

Sponsors: Representatives Goodman and Hawkins.

Brief History:

Committee Activity:

Public Safety: 1/26/16 [DP].

Brief Summary of Bill

- Expands the list of aggravating circumstances that a court may consider when imposing an exceptional sentence above the standard sentencing range to include Theft and Burglary offenses that occur during a state of emergency declared by the Governor in an area that had been ordered evacuated.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Yvonne Walker (786-7841).

Background:

A Governor may proclaim a state of emergency in any event, when a public disorder, disaster, energy emergency, or riot exists within the state that affects life, health, property, or public peace. The state of emergency is proclaimed for, and only effective within, the affected area which may be part or all of the state. An emergency proclamation enables the Governor to prohibit specific activities, such as public gatherings, transfer of combustible materials, public possession of firearms, and the use of public streets at any time during the state of emergency.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Governor may also prohibit other activities as he or she reasonably believes is necessary to help preserve and maintain life, health, property, or the public peace. The Governor has authority to waive or suspend statutory obligations or limitations for certain, limited executive functions, such as purchasing rules, during and in the areas affected by an emergency proclamation.

Theft. Washington's Theft statute punishes a person based upon the value of the property stolen. A person commits Theft if he or she:

- wrongfully obtains or exerts unauthorized control over the property or services of another with intent to deprive him or her of the property or services;
- by deception, obtains control over the property or services of another with the intent to deprive him or her of the property or services; or
- appropriates lost or misdelivered property or services of another with intent to deprive him or her of the property or services.

Theft in the first degree, a seriousness level II, class B felony offense, occurs when a person commits theft of property or services valued in excess of \$5,000. Theft in the second degree, a seriousness level I, class C felony offense, occurs when a person commits theft of property or services valued in excess of \$750, but not exceeding \$5,000. Theft in the third degree, a gross misdemeanor offense, occurs when a person commits theft of property or services valued less than \$750.

Burglary. A person is guilty of Burglary in the first degree if he or she enters or remains unlawfully in a building with intent to commit a crime and either the defendant or another participant in the crime is armed with a deadly weapon or assaults a person. Burglary in the first degree is a seriousness level VII, class A felony offense. A person commits Burglary in the second degree if he or she enters or remains unlawfully in a building with intent to commit a crime. Burglary in the second degree is a seriousness level III, class B felony offense.

A person is guilty of Residential Burglary if he or she enters or remains unlawfully in a dwelling with intent to commit a crime. Residential Burglary is a seriousness level IV, class B felony offense.

Aggravating Circumstance. Generally, the standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that, in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act (SRA) provides an exclusive list of aggravating circumstances which the court may consider an aggravating circumstance or which a jury may consider in imposing an exceptional sentence above the standard range.

Summary of Bill:

The exclusive list of factors provided in statute for the court to consider in determining whether to impose an exceptional sentence above the standard range is expanded to include Theft and Burglary offenses that occur during a state of emergency declared by the Governor. The crime must occur in the evacuated area described in the proclamation and where the person with a right to the control of the real or personal property had evacuated because he or she had been ordered or requested to do so as a result of the state of emergency proclamation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Last summer during the wildfires that took place in eastern Washington, looters went into the area, ransacked, and looted from evacuated homes. Small businesses in rural communities suffer due to looting. During a state of emergency people that live in these neighborhoods are defenseless. This bill will provide an aggravating circumstance to a person's sentence. This bill may not deter crime but the purpose of the SRA is to provide "just desserts."

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; and Mark Johnson, Washington Retail Association.

Persons Signed In To Testify But Not Testifying: None.